

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

In re Application of)	
)	
ENTERCOM LICENSE, LLC)	MB Docket No. 16-357
)	
FM Broadcast Station KDND,)	File No. BRH-20050728AUU
Sacramento, California)	File No. BRH-20130730ANM
)	Facility ID # 65483
)	
For Renewal of License)	
TO:	Office of the Secretary	
ATTN:	The Commission	

**CONSOLIDATED REPLY TO
OPPOSITIONS TO APPLICATION FOR REVIEW**

Edward R. Stolz II (Stolz), by his attorney, and pursuant to 47 CFR §1.115(d), hereby respectfully submits this Consolidated Reply to the May 2, 2017 Oppositions to Stolz's April 17, 2017 Application for Review filed separately by Entercom License, LLC (Entercom) and the Acting Chief, Enforcement Bureau, FCC (EB). In so doing whereof, the following is shown:

Inadequate Notice of ALJ Order

1. At 11:39 am on Thursday, April 6, 2017, the undersigned received the following e-mail communication from Rachel B. Funk, an attorney/advisor in the FCC Office of Administrative Law Judges:

Mr. Kelly,

Please see the attached order of dismissal for the Entercom matter. I apologize that this was not posted on ECFS in a timely manner – it appears that there were some technical issues that we were not aware of until today. We are working to get it resolved, but in the meantime, please find attached a copy of the order.

2. Therefore, we were not given adequate notice of the release of FCC 17M-09 until April 6, 2017.

3. We therefore timely filed an appeal of the ALJ's order terminating the above-captioned docket under 47 CFR §1.302(b), as it was filed on the first working day after the tenth day after the actual notice date of FCC 17M-09, Monday, April 17, 2017. The notice of appeal and points and authorities in support whereof were contained in our Application for Review filed pursuant to 47 CFR §1.115. The pleading we filed on April 17, 2017 was therefore timely under both 47 CFR §1.302(b) and 47 CFR §1.115(d).

Application for Review Is Procedurally Correct

4. Section 1.302(b) by its precise terms applies only to "parties". Stolz was not a party of the hearing, although he had sought intervenor status, and still has pending a "Petition for Reconsideration" to be granted intervenor and/or party respondent status. The rule section that appeared to govern Stolz's situation was Section 1.115, as it covers "**[a]ny person aggrieved by any action taken pursuant to delegated authority**". Stolz is aggrieved by the result of the above-captioned docket, as he is

still litigating over another Entercom Sacramento cluster station, KUDL, 106.5 MHz.

5. As Stolz noted in his Application for Review, the Commission in the past has not let a party in the posture of Entercom get away with "settling away" designated hearing issues in one case in hopes of avoiding them with respect to the party's other broadcast stations. ***Western Cities Broadcasting, Inc.***, DA 90-1355, 5 FCC Rcd 6177 (Audio Services Division, 1990).

6. It is disappointing that the EB fails to acknowledge that Entercom is playing a shell game with the FCC. Four days after the FCC attempted to release FCC 17M-09, Entercom and CBS Radio filed their various Form 314 and Form 315 applications seeking FCC consent to their plan to merge, with Entercom's management seeking to become either the legal or beneficial (or both) owner of some 177 CBS Radio stations.

7. Stolz's Application for Review is a request that the Commission en banc take a hard look at Entercom's conduct in trying to get around the substantial hearing issues that were designated against it in the aftermath of the death of Jennifer Lea Strange, a death where Entercom was complicit. This would be an exercise in "draining the swamp", and the integrity of the Commission's processes, together with the public interest, convenience and necessity, would be well served by a full and fair en banc review of Entercom's Sacramento operations.

Intervenors' Petition to Enlarge Must Be Granted

8. Entercom argues on page 7 of its Opposition that the Petition to Enlarge Issues filed January 9, 2017 by the Intervenors herein cannot be granted. While the Chief Administrative Law Judge no longer has jurisdiction over the above-entitled matter, the Commission en banc does. Remember that Stolz timely filed a Petition for Reconsideration of one of the last actions of the Obama-managed FCC: the granting of the renewal applications for Entercom's other Sacramento cluster stations: KUDL(FM); KSEG(FM); KKDO(FM); KRXQ(FM); and KIFM(AM). The Commission can lawfully direct the Chief, Media Bureau, to grant the Stolz Petition for Reconsideration, designate the renewals of these five stations for hearing, and designate both the slate of issues originally designated in the above-captioned proceeding, along with the issues requested by the Intervenors herein. President Trump's promises to the American people to "Drain the Swamp" and to promote the culture of life in our nation would be well served by such action.

Entercom's Economic Penalty or Loss

9. Entercom argues that the Chief Administrative Law Judge was not required to look behind the letter filed by Entercom turning the KDND license in for cancellation.

10. The Chief ALJ issued FCC 17M-09 on March 16, 2017. The parties to the Entercom and CBS Radio merger filed their FCC Forms 314 and 315 applications electronically on March 20, 2017.

Thus, the Chief ALJ would not have known as of March 16, 2017 that Entercom proposed to be the beneficial owner of some ten radio stations in Sacramento.

11. Therefore, the Chief ALJ could not have known, one way or the other, whether Entercom was in fact "willingly accepting the severest penalty in a renewal case" (FCC 17M-09 at 2). Because of potential tax and accounting maneuvers, Entercom may not have suffered any kind of a penalty at all. This is so because Entercom has to divest a number of the stations it would otherwise be receiving in its merger with CBS Radio to get down to the maximum allowed by 47 CFR §73.3555(a).

12. Stolz therefore requests the Commission to seek an accounting of Entercom to determine the actual economic penalty suffered by it. It would need to do this in order to build a complete record on whether the Entercom - CBS Radio merger would serve the public interest, convenience and necessity.

13. It is Stolz's position that, on the state of this record, the Commission en banc cannot find that Entercom possesses the basic character qualifications to be a Commission licensee, and, until it does, it cannot grant the renewal applications for the stations in Entercom's Sacramento cluster, and it cannot grant its consent to the Entercom - CBS Radio merger. ***Jefferson Radio Company, Inc. v. FCC***, 340 F.2d 781 (D. C. Cir. 1964).

FCC Database Still Not Updated

14. The FCC database has not yet been updated; as of this afternoon, the CDBS system still showed KDND as a licensed station (see attachment, screen shot of KDND's CDBS station information as of May 12, 2017). It seems to the undersigned to be a violation of the Administrative Procedure Act for the Chief ALJ to grant Entercom's motion to turn in its license for cancellation, and then for the FCC or its staff not acting to delete KDND's facilities in its records. 5 U.S.C. §706(1), which calls for a reviewing court to "compel agency action unlawfully withheld or unreasonably delayed".


Conclusion

15. Stolz reiterates its position that the Commission en banc now has an obligation to transfer all hearing issues previously designated by the Commission on October 27, 2016 in FCC 16-153 to a new hearing proceeding involving the most recent renewal applications for the following stations: KUDL(FM), Sacramento, California, File No. BRH-20130730ANC; KRXQ(FM), Sacramento, California, File No. BRH-20130730ANI; KSEG(FM), Sacramento, California, File No. BRH-20130730ANK; KKDO(FM), Fair Oaks, California, File No. BRH-20130730AND; and KIFM(AM), West Sacramento, California, File No. BRH-20130730ANG. Furthermore, the Commission needs to adopt all hearing issues proposed by the Intervenors in the above-captioned proceeding on January 9, 2017.

WHEREFORE, Edward R. Stolz II urges that the foregoing Application for Review **BE GRANTED**; that the Commission issue a formal order that the license for KDND(FM), 107.9 MHz, Sacramento, California **IS HEREBY CANCELLED AND THAT ITS FACILITIES ARE HEREBY DELETED**; and that the renewal of license applications filed by Entercom License, LLC and/or affiliated entities for KUDL(FM), KRXQ(FM), KSEG(FM), KDDO(FM) and KIFM(AM) in the Sacramento, California radio market **BE DESIGNATED FOR HEARING** upon the hearing issues specified by the Commission in its October 27, 2016 Hearing Designation Order, FCC 16-153 and upon the issues stated in paragraph 25 above.

Respectfully submitted,

EDWARD R. STOLZ II



By _____
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DATED: May 12, 2017



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Search returned: 1 matching station

Station Search Results

Call Sign	Facility Id	Service	Licensee	Status	Details
KDND	65483	FM	ENTERCOM LICENSE, LLC	LICENSED	Click for Details

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CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing "Consolidated Reply to Oppositions to Application for Review" were served by first-class mail, postage prepaid, on this 12th day of May, 2017 upon the following:

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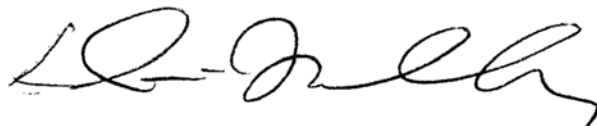
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A handwritten signature in black ink, appearing to read "D. Kelly", with a stylized, cursive script.

Dennis J. Kelly